

TONBRIDGE & MALLING BOROUGH COUNCIL

STANDARDS COMMITTEE

7 March 2007

Report of the Monitoring Officer

Part 1- Public

Matters for Recommendation to Council

2 GOVERNMENT PROPOSALS FOR "LOCALISATION" OF THE ETHICAL FRAMEWORK

- 2.1.1 In the Government's White Paper on the future of local government, the Secretary of State has made known her intention to progress with the localisation of the new ethical framework, some details of which have been given by the Department. In this report I attempt to summarise these proposals, as presently understood, and to make recommendations to prepare for the anticipated changes.
- 2.1.2 It is the intention to convert the Standards Board for England (SBE) from a regulator of first instance to an oversight body, issuing guidance and giving support to local authorities, to whom the responsibilities of the Board will be transferred.
- 2.1.3 By way of background to this report, the following statistical information may be of assistance:

Cases reported to the Standards Board:

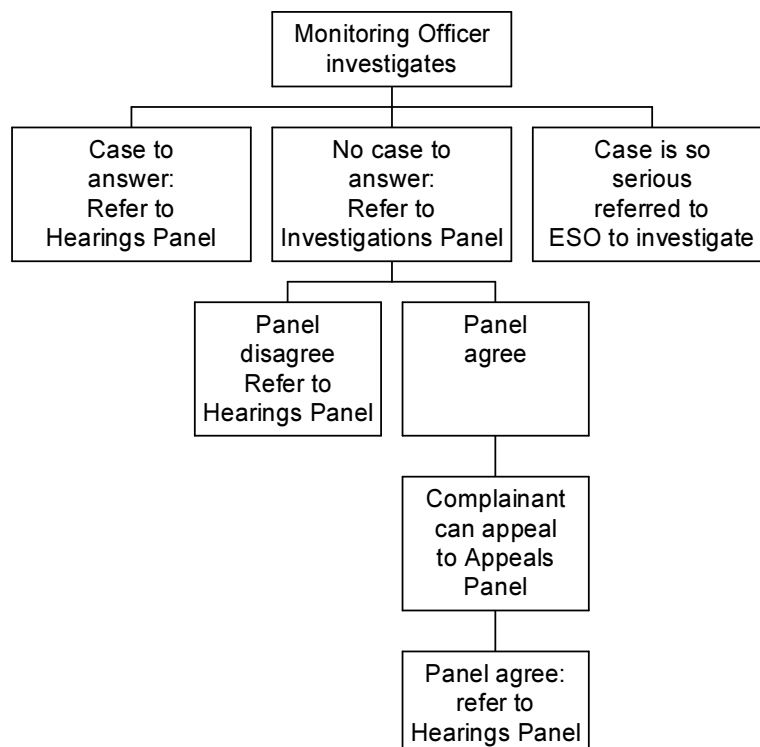
	2002†	2003	2004	2005	2006	Totals
Allegations made:	1	11	4	7	4	27
<i>Borough Council</i>	0	0	1	0	2	3
<i>Parish Council</i>	1	11	3	7	2	24
Not referred	0	11	4	1	3	19
ESO Investigations	1	0	0	6‡	0	7
Local investigations	0	0	0	0	1‡	1
APE determinations	0	0	0	0	0	0
Local determinations	1	0	0	0	0	1
APE appeals	1	0	0	0	0	1

† April to December

‡ Cases still pending

2.2 Investigation of complaints against members

- 2.2.1 It is proposed that the Monitoring Officer is given new responsibilities to receive all complaints, to carry out the screening process and to report to a panel of the Standards Committee of his findings. At present this work is done by the Referrals Unit of SBE. Since the new ethical framework was introduced, there have been 27 formal complaints against members of this Council and the town and parish councils in the Borough. To this could be added a number of 'grumbles' made to the Monitoring Officer, but not repeated as formal allegations to SBE, which would probably double the number, making an average of about 10 cases each year. Under the new regime, all of these complaints will have to be the subject of a screening report by the Monitoring Officer. The SBE will issue guidance on the triage process for filtering complaints.
- 2.2.2 In the case of a Borough Councillor, if the screening report recommends that a hearing be held into the allegation, the Monitoring Officer will convene a "hearings panel" of the standards committee, usually of five members.
- 2.2.3 If the screening report recommends that no further action be taken in respect of the allegation, the Monitoring Officer will convene an "investigations panel", usually of three members, to review his report. The screening panel may agree that no further action is taken or may decide to refer the case to a hearings panel.
- 2.2.4 If the screening panel decides to take no further action, the decision is to be notified to the complainant (if known) and they will be able to ask for an appeals panel' (of three or five members) to look again at the report.
- 2.2.5 This chart shows a summary of this process:



- 2.2.6 More serious cases, or cases involving more than one authority, might be referred to SBE for investigation by an Ethical Standards Officer, although the circumstances in which this might be possible have not yet been defined.
- 2.2.7 If the complaint is made against a member of a town or parish council, the process is the same, save that membership of the panels will be taken from the members of the Town and Parish Councils Standards Sub-Committee.
- 2.2.8 In all cases, it will be a legal requirement for the panel to be chaired by an independent member. It is also expected to be a legal requirement, to comply with the 'fair hearing' rules, that members do not sit on more than one panel in respect of the same case.

2.3 Implications for the Standards Committee

- 2.3.1 Under these proposals, the panels of the committee will be required to hold many more sittings than has previously been the case. As each case could involve three panels, three independent members as chairs and up to ten councillors as members, it would be appropriate for the number of councillor members to be significantly increased from six to at least twelve, to allow for absence, illness and conflicts of interests.
- 2.3.2 There will be a need for a minimum of three independent members: at present only have two. As a result, it would be appropriate for the number of independent members to be increased from two to at least four, again, to allow for absence, illness and conflicts of interests. The independent members must be form at least 25% of the membership of the committee. The term of office of our independent members expires after the election in May 2007. If willing to continue in office, the present independent members can be re-appointed for a further term. However, any new members would need to be recruited in accordance with the statutory process, which involves a newspaper advertisement and interview by a panel of members, previously the councillor members of the standards committee. I recommend the setting up of a small panel of five members to consider the applications received and make recommendations to Council.
- 2.3.3 In the case of the Town and Parish Councils Standards Sub-Committee, the number of councillor members will need to be increased from five to twelve. If willing to continue in office, the present parish council members can be re-appointed for a further term. However, any additional members would need to be recruited in accordance with the council's previously agreed process, which involves inviting nominations from all of the town and parish councils in the borough and submitting the list of candidates to a vote by all 27 councils.
- 2.3.4 At present, it is anticipated that these changes will have effect from late 2007, after the Local Government and Public Involvement in Health Bill, has been passed, so it would be appropriate for Council to consider making these arrangements following the elections in May 2007. In any event, the Council has a duty to review the size and membership of its committees following an election.

2.4 Implications for the Monitoring Officer

- 2.4.1 The Monitoring Officer already has a very extensive role, a summary of which is set out in **[Annex 1]** to this report.
- 2.4.2 Under these proposals, the role of the Monitoring Officer will be increased considerably. In the other report on this agenda, I refer to the additional responsibilities in respect of maintaining the registers of declarations of interests and discharging his the “key role” of promoting and maintaining high standards of conduct throughout the authority. This will include arranging and delivering training for borough, town and parish councillors.
- 2.4.3 In addition, under these proposals, the Monitoring Officer will have responsibility for procuring the investigation of complaints and producing the screening report. Further investigation may be necessary before any hearing can be held.
- 2.4.4 A further report on the resource implications will be submitted to a future meeting.

2.5 Legal Implications

- 2.5.1 The Council has a statutory obligation under the Local Government Act 2000 to have a Standards Committee and to make arrangements for the discharge of its functions in relation to town and parish councils. The membership of the committee and sub-committee is prescribed by law. The size of the committee and sub-committee must be sufficient to enable them to properly discharge their functions.

2.6 Financial and Value for Money Considerations

- 2.6.1 The recommendations referred to in paragraph 2.8 of this report should not have a significant impact on the Council's revenue budget. However, the issues raised in paragraphs 2.4.1 to 2.4.4 are likely to have financial implications which will be detailed in the report to a future meeting.

2.7 Risk Assessment

- 2.7.1 The Council would be open to challenge if it did not comply with its statutory duty to provide a properly-constituted standards committee.

2.8 Recommendations

- 2.8.1 It is **recommended** that members note the proposals for changes in the way the ethical framework is to be operated.
- 2.8.2 It is **recommended** that the membership of the Standards Committee be reviewed at the Annual Meeting in May 2007 as follows:

- 1) That the membership of the Standards Committee consist of twelve members of the Council (of whom not more than one may be a member of the executive and may not be the leader) and four independent members.
- 2) That, subject to their being willing to continue to serve, the two existing members be invited to continue in office until after the elections in May 2011.
- 3) That the Monitoring Officer be authorised to advertise in a local newspaper for expressions of interest from persons interested in becoming independent members and that a panel of five members be established to interview the candidates and report to the Council on future appointments.

2.8.3 It is **recommended** that the membership of the Town and Parish Councils Standards Sub-Committee be reviewed at the Annual Meeting in May 2007 as follows:

- 1) That the membership of the Sub-Committee consist of twelve members appointed to represent the town and parish councils in the Borough four independent members.
- 2) That, subject to their being willing to continue to serve, the five existing town and parish council members of the sub-committee be invited to continue in office until after the elections in May 2011.
- 3) That the Monitoring Officer be authorised to invite nominations from the town and parish councils in the Borough to fill any vacancies in the sub-committee and that, in the event that the number of nominations exceeds the number of vacancies, the Monitoring Officer arrange a poll by the town and parish councils to select the appropriate number of members.

Background papers:

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Local Government Act 2000

The Relevant Authorities (Standards Committee)
Regulations 2001

White Paper: Strong and Prosperous Communities
(DCLG 2006).

Local Government and Public Involvement in Health
Bill [2007]

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